

MANDATE

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

NEW YORK STATE RESTAURANT
ASSOCIATION,

Plaintiff-Appellee,

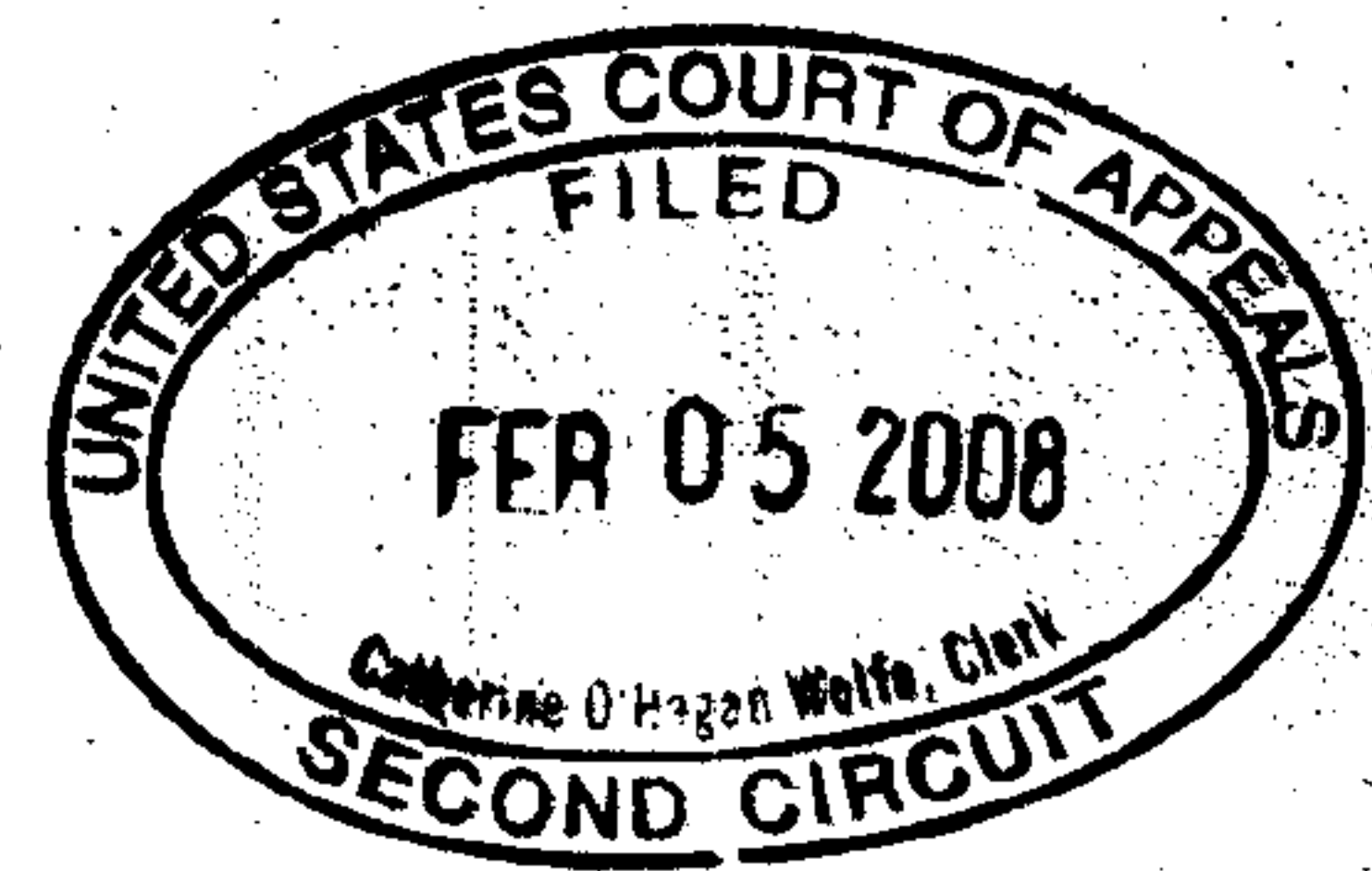
v.

NEW YORK CITY BOARD OF HEALTH,
NEW YORK CITY DEPARTMENT OF
HEALTH AND MENTAL HYGIENE,
COMMISSIONER THOMAS R. FRIEDEN,

Defendants-Appellants.

No. 07-4378-cv

SONY (NYC)
07-CV-5710
HOLWELL



STIPULATION AND ORDER

WHEREAS, on September 11, 2007, the District Court entered a Memorandum Opinion and Order holding that Section 81.50 of the New York City Health Code adopted on December 5, 2006 is without effect and permanently enjoining defendants from enforcing it; and

WHEREAS, defendants filed a Notice of Appeal on October 5, 2007; and

WHEREAS, the parties entered into a Stipulation and Order dated November 2, 2007 and filed November 14, 2007, which is attached and incorporated by reference herein; and

WHEREAS, the November 2, 2007 Stipulation and Order provides that "upon the adoption of a new Section 81.50, the parties agree that the above-captioned appeal will immediately be dismissed as moot with prejudice by stipulation signed by the parties' counsel and without costs or attorneys fees incurred to date"; and

WHEREAS, on January 22, 2008, the New York City Board of Health repealed the former Health Code §81.50 and reenacted a new section 81.50.

CERTIFIED:

2/5/08

NOW THEREFORE, IT IS HEREBY STIPULATED AND AGREED by the
undersigned counsel that:

The above-captioned appeal will be deemed dismissed as moot with prejudice and
without costs or attorneys fees incurred to date.

Dated: New York, New York
January 23, 2008

MICHAEL A. CARDOZO
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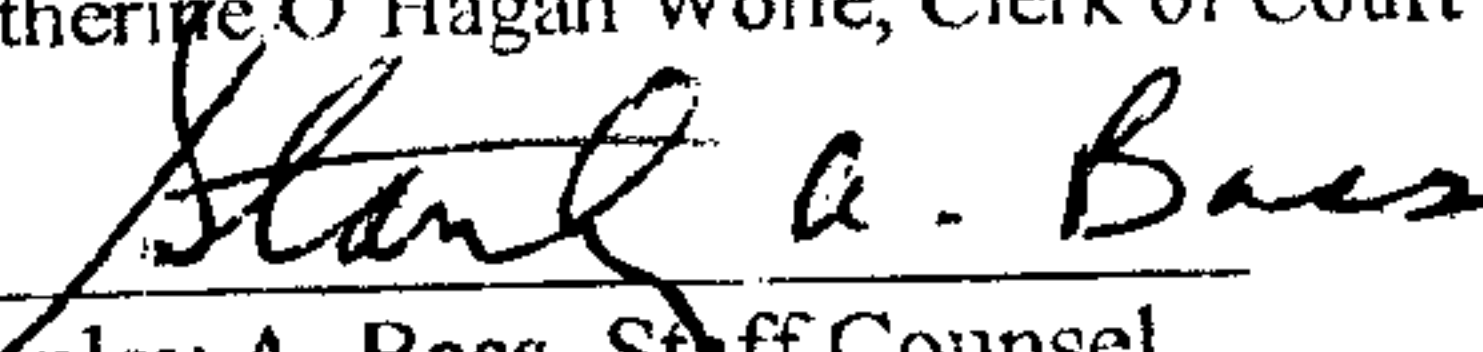

Fay Ng
Assistant Corporation Counsel

ARNOLD & PORTER LLP

Attorney for Appellee
399 Park Avenue
New York, New York 10022
(212) 715-1000


Peter L. Zimroth

SO ORDERED:

FOR THE COURT
Catherine O'Hagan Wolfe, Clerk of Court
By 
Stanley A. Bass, Staff Counsel

Jan. 30, 2008